



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/432,984 11/02/99 PARK

M 140-032

EXAMINER

MM91/0314

WARD & OLIVO
708 THIRD AVENUE
NEW YORK NY 10017

BERMAN, J
ART UNIT PAPER NUMBER

6

2881
DATE MAILED:

03/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/432,984

Applicant(s)

PARK ET AL.

Examiner

Jack I. Berman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414. While the declaration does state that there was additional subject matter which Applicant intended to claim, there is no defect in any of the claims pointed out which would render the patent either wholly or partly inoperative or invalid.

Claims 1-57 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34-39 and 42-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 34 is directed to "a multideflector according to claim 31"; but claim 31 is directed to "an improved time of flight mass spectrometer according to claim 23". There is therefore no antecedent basis for the "multideflector according to claim 31" claimed in claim 34. While claim 23 does provide an antecedent basis for a multideflector, a dependent claim cannot remove limitations from a parent claim by claiming a single element of a combination claimed in a parent claim without the additional elements also claimed in the parent claim. Claims 35-39 have the same problem. Claims 42-51, on the other hand, are directed, either directly or indirectly, to the improved time of flight mass spectrometer claimed in claim 41, but claim 41 is directed to a multideflector. Claims 52-57 are directed to "a

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multideflector according to claim 49", but as is noted above, claim 49 is directed to an improved time of flight mass spectrometer. The inconsistency in the subject matter of the claims makes it impossible to determine if Applicant is attempting to claim a multideflector or an improved time of flight mass spectrometer containing such a multideflector.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 41 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Le Poole. Le Poole's beam deflection system 8 is identical to the multideflector claimed in the instant application.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Guilhaus et al. and Bateman were cited in the prosecution of the original patent. Aitken teaches that electrostatic deflection plates may be curved. Note especially the parallel curved plates illustrated in Figure 10b.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack I. Berman whose telephone number is (703) 308-4849. The examiner can normally be reached on M-F (8:30-6:00) with every second Friday off.

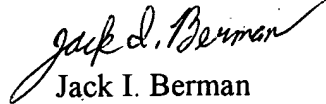
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa M. Arroyo can be reached on (703) 308-4782. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


Jack I. Berman
Primary Examiner
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jb
February 26, 2001